

## REMARKS

This is a response to the Office Action dated April 22, 2005. Claims 1-20 are pending in the application. Claims 1, 4, 5, 9, 11-14, and 16-18 were rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Pat. No. 6,694,240 ("Swick"). Claims 2-3, 6-8, 10, 15, and 19-20 were objected to as being dependent upon a rejected base claim. The grounds for rejection are believed to be overcome in view of the remarks presented below.

The rejections from the Office Action dated April 22, 2005 are discussed below in connection with the various claims. No new matter has been added. Reconsideration of the application is respectfully requested in light of the following remarks.

### Rejections Under 35 U.S.C. § 102(e)

#### **Independent Claims 1, 11, and 16**

The Examiner has rejected independent claims 1, 11, and 16 as being anticipated by Swick. Independent claim 1 relates to a method for changing the operating characteristics of an implement for use with a work machine. Independent claim 11 relates to a method for changing the operating characteristics of an implement for use with a work machine, including the step of connecting the implement with the work machine. Independent claim 16 relates to a work machine comprising a connectable implement, an electronic control module, and signal means.

According to the Examiner, Swick teaches a work machine including a connectable implement having operating characteristics with a predetermined operational range consisting of a plurality of values because the engine may be considered a connectable implement. Similarly, the Examiner states that the work machine of Swick would inherently perform the claimed method steps during the assembly and use of the machine because the engine may be considered a connectable implement.

Applicants respectfully disagree with the Examiner's construction that the engine in Swick is a connectable implement. In the absence of an express intent to impart a novel meaning to a patent's claim terms, an inventor's claim terms take on their ordinary

meaning; the ordinary meaning must be determined from the standpoint of a person of ordinary skill in the relevant art. *Nystrom v. Trex Co.*, 374 F.3d 1105, 71 U.S.P.Q.2d 1241, 1245-46 (Fed. Cir. 2004). The ordinary meaning of the term “implement” as used in the art clearly distinguishes an implement from an engine. As seen in the Applicant’s specification: “[t]he implement could be any hydraulically controlled implement with operating characteristics having a predetermined operational range, including an auger, broom, stump grinder, cold planer, or any other such implement.” (See Specification, ¶ 12). The implement is illustrated in Figure 1, where the work machine (100) is depicted as having a first-end portion (136) connectable with the implement (124). (See Fig. 1, Specification, ¶ 11). In contrast, the engine (not shown) is an integral part of the work machine – not an implement.

Support for this construction is also found in Swick, which identifies implements and engines as distinct elements performing different functions. For example, Swick notes that: “Work machines often include one or more hydraulically-controlled **implements**. For instance, a backhoe includes a loader and a digging **implement**.” (Swick, Col.1, ll. 13-16). Swick then separately describes the engine: “In order to operate the backhoe, hydraulic pressure is supplied to at least one hydraulic cylinder via a hydraulic pump that is powered by an **engine**.” (Swick, Col. 1, ll. 17-19). The engine (39) in Swick forms an integral part of the backhoe loader (10) or work machine. The engine is attached to the work machine body (11) and coupled to a transmission (37), powering the hydraulic pump that supplies hydraulic fluid to the implements. (See Swick, Col. 1, ll. 15-18; Col. 3, ll. 37-40).

Because the engine in Swick is not an implement, Swick does not teach or suggest changing operating characteristics of an implement for use with a work machine. Therefore, Applicants respectfully submit that Swick does not anticipate the present invention. Accordingly, Applicants request that the Examiner withdraw this rejection of independent claims 1, 11 and 16.

#### **Dependent Claims 4-5, 9, 11-14, and 16-18**

Dependent claims 4-5, 9, 11-14, and 16-18 were also rejected pursuant to 35 U.S.C. § 102(e) as being anticipated by Swick. The dependent claims should be allowed for the reasons set out above for claims 1, 11, and 16, the claims from which they depend.

Applicants therefore request that the Examiner withdraw this rejection of these claims.

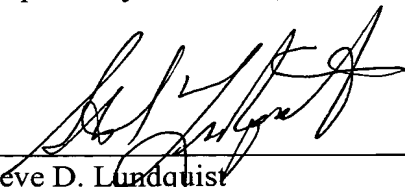
**Allowable Subject Matter**

Applicants gratefully acknowledge that the Examiner would allow Claims 2-3, 6-8, 10, 15, and 19-20 if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. However, in view of the remarks above, Applicants respectfully submit that these dependent claims should be allowed for the reasons set out above for claims 1, 11, and 16, the claims from which they depend. Applicants therefore request that the Examiner withdraw this rejection of these claims.

**Conclusion**

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections, and that they be withdrawn. The Examiner is courteously invited to telephone the undersigned representative if it is believed that an interview might be useful for any reason.

Respectfully submitted,



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